IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:-

THE HONOURALE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

MONDAY, THE 18TH JUNE 2007 / 28TH JYAISHTA 1929

W.A.No.1410 of 2007

AGAINST THE JUDGEMENTIN W.P.(C).NO.16885/2007 DATED 04/06/2007

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APPELLANT/PETITIONER:-

S.SANTHARAM SHENOY,
PROPRIETOR, M/S.SHENOYS ENTERPRISES,
FORT ROAD, KANNUR - 670 001.

BY ADV. SRI.DALE P.KURIEN

RESPONDENTS/RESPONDENTS:-

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1. THE ASSESSING OFFICER, SPECIAL CIRCLE, KANNUR.

2. THE COMMERCIAL TAX INSPECTOR,
KERALA COMMERCIAL TAXES CHECK POST, NEW MAHE.

3. THE COMMISSIONER OF COMMERCIAL TAXES,
THIRUVANANTHAPURAM.

BY SPECIAL GOVERNMENT PLEADER (TAXES) SRI.V.V.ASHOKAN.

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 18/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

H.L.Dattu,C.J. & K.T.Sankaran,J.

W.A.No.1410 of 2007

Dated, this the 18th day of June, 2007

JUDGMENT

H.L.Dattu,C.J.

Questioning the correctness or otherwise of the notice issued by the Commercial Tax Inspector, Commercial Tax Check Post, New Mahe dated 28.05.2007, the petitioner was before this Court. The reliefs sought for in the writ petition were to quash Exhibit P5, i.e., a notice issued by the respondent authority under Section 47(2) of the Kerala Value Added Tax Act and, secondly, a direction to the 2nd respondent not to proceed further pursuant to the notice issued by him. By way of an interim relief, the petitioner had sought for a direction to the 2nd respondent to release the goods belonging to the petitioner which is detained at New Mahe Commercial Tax Check Post.

2. The learned Single Judge has disposed of the writ petition itself by directing the petitioner to offer Bank Guarantee for release of the goods detained by the second respondent. It is the correctness or otherwise of the order passed by the learned Single Judge is the subject matter of this Writ Appeal.

3. The learned counsel appearing for the appellant, at the time of hearing of the Writ Appeal for admission, would submit that the appellant may be permitted to file his objections to the notice issued by the 2nd respondent dated 28.05.2007 in a week's time and further a direction may be issued to the 2nd respondent to consider and pass appropriate orders within a time frame.

4. In view of the statement made by the learned counsel for the appellant, we need not have gone into the merits or demerits of the Writ Appeal. Accordingly, the following:

Order

(i) The Writ Appeal is disposed of.

(ii) The appellant/petitioner is permitted to file his objections, if any, to the notice issued by the 2nd respondent dated 28.05.2007 before the competent officer in a week's time from today.

(iii) If such objections are filed within the time granted by this Court, the competent officer is directed to consider and pass appropriate orders within three weeks thereafter.

(iv) If, for any reason, the appellant is aggrieved by the order that may be passed by the competent officer, he is at liberty to challenge the same before the appropriate forum in appropriate proceedings.

Ordered accordingly.

H.L.Dattu
Chief Justice

K.T.Sankaran
Judge

vku/-